

## Appendix E

### DEMOLITION OF HISTORICALLY SIGNIFICANT BUILDINGS and STRUCTURES Demolition Delay Bylaw

#### Section 1. Intent and Purpose

It is the intent and purpose of this bylaw to preserve and protect from demolition, whenever possible, historically significant buildings and structures; to ask owners of such buildings or structures to explore possible alternatives to such demolition, and thereby preserve the historic resources of the Town, make the Town a more desirable and attractive place in which to live, and so promote the general welfare.

#### Section 2. Definitions

For the purposes of this section the following words and phrases shall have the following meanings:

**“Building Inspector”**- The Town of Shirley Building Inspector.

**“Building”**- A structure having a roof or covering forming a shelter for persons, animals, or property.

**“Commission”** – The Shirley Historical Commission, which also functions as the Shirley Center Historic District Commission for matters involving properties within the Shirley Center Historic District. The Commission may designate one or more of its members to act in its behalf between the Commission’s regular monthly meetings.

**“Demolition”**- Any act of pulling down, dismantling, or otherwise razing an existing building or structure, requiring the issuance of a Demolition Permit by the Building Inspector.

**“Demolition Permit”**- The permit issued by the Building Inspector as required by the State Building Code for the demolition, partial demolition or removal of a building or structure.

**“Form B” and “Form F”** – The documents authorized by the Massachusetts Historical Commission for use by town historical commissions to record the historic assets within their town boundaries. Form B is for buildings and Form F structures. These forms are essential documents when application is made for listing buildings or structures on the National Register of Historic Places.

**“Historically Significant Building or Structure”**- A building or structure that retains a significant amount of original, unaltered structure, fabric or detail, and/or is associated with historically significant persons or events, and has been determined by the Commission to be the subject of a public hearing to review if it is worthy of preservation.

**“Preferably Preserved Significant Building or Structure”**- Any “historically significant building or structure” which is determined, after a public hearing by the Historical Commission, to be worthy of preservation.

**“Structure”**- Any construction, erection, assemblage or other combination of materials upon the land made in such a manner as to indicate a purpose that it remain in position indefinitely.

### **Section 3. Regulated Buildings and Structures**

The provisions of this bylaw shall apply only to any building or structure that is the subject of a “Form B” or “Form F”, recorded with the Massachusetts Historical Commission as an historic asset of the Town of Shirley, or a pending application for same.

### **Section 4. Procedure**

- a. No permit for the demolition of any building or structure shall be issued other than in conformity with the provisions of this bylaw and in conformity with the provisions of other laws and bylaws applicable to the demolition of buildings and structures and the issuance of permits generally.
- b. Upon receipt of an application for a demolition permit the Building Inspector shall forward a copy of the demolition permit application to the Commission and the Town of Shirley Planning Board.
- c. Under this bylaw, the receipt by the Commission of a letter from the owner of a building or structure stating the intention to demolish that building or structure shall be treated by the Commission as the equivalent of receipt of an application for a demolition permit under section 4, paragraph d.
- d. Within ten (10) calendar days of the receipt by the Commission of an application for a demolition permit, the Commission shall determine whether the building or structure is a regulated building or structure. And, if the Commission determines that the building or structure is regulated by this bylaw, the Commission shall also determine within the same ten (10) calendar days whether the building or structure is Historically Significant. The Commission shall notify the Building Inspector if the Commission determines that the building or structure is Historically Significant and is subject to a public hearing.
- e. If the Commission determines that the building or structure is not regulated by this bylaw, or is not Historically Significant, notice of this determination of non-applicability shall be sent to the Building Inspector. This determination shall remain valid for a period of two years from the date of application. Upon receipt of such notice, the Building Inspector may issue the demolition permit. If the Building Inspector does not receive the opinion of the Commission in regard to these determinations within ten (10) calendar days of the receipt of the application by the Commission, then subject to section seven of this bylaw the Building Inspector may grant the demolition permit.
- f. If the Commission determines that the building or structure is Historically Significant, the Commission shall review the application for demolition at a public hearing to be held within twenty (20) calendar days of the determination that the subject building or structure is Historically Significant.
- g. The Commission shall have published in a newspaper of local circulation, at the property owner’s expense, notice of the date, time and place of such public hearing. Such notice shall specify the address of the subject building, and shall be published in said newspaper once during each of the two weeks preceding the date of the public hearing.

- h. Not less than five (5) calendar days before the public hearing the applicant for the demolition permit shall submit to the Commission three (3) copies of a Demolition Plan which shall include the following:
  - (i) A map or sketch plan showing the location of the building or structure to be demolished;
  - (ii) Photographs of all street facade elevations;
  - (iii) A description of the building or structure to be demolished;
  - (iv) The reasons for the proposed demolition;
  - (v) A brief description of the proposed reuse of the parcel on which the building or structure to be demolished is located.
- i. After the said public hearing and within thirty (30) calendar days from the initial application, the Commission shall determine whether the subject building or structure is a Preferably Preserved Building or Structure and notify in writing the applicant and the Building Inspector of its determination, stating the reasons for such decision. This determination shall remain valid for a period of two years from the date of application.
- j. If it is determined within thirty (30) calendar days from the application date that the subject building or structure is both Historically Significant and Preferably Preserved, the Building Inspector shall not issue a demolition permit for a period of six (6) months from the date of such determination. The Demolition Delay period can be shortened provided that the applicant has agreed to accept a demolition permit subject to certain conditions approved by the Commission.
- k.. Upon determination by the Commission that a building or structure is a Preferably Preserved Significant Building or Structure, the owner shall be responsible for properly securing the building or structure, to the satisfaction of the Building Inspector. Should the owner fail to secure the building or structure, the loss of such building or structure through fire or other cause shall be considered demolition.

## **Section 5. Notice**

Notice of a hearing on the determination of status provided for in this bylaw shall be sent by the Historical Commission. The costs for sending such notices shall be paid by the owner of the property. Notice copies will be sent to:

- (i) the owner of record
- (ii) the applicant (if different from the owner )
- (iii) the owners of all adjoining property as they appear on the most recent certified abutters list of the Board of Assessors,
- (iv) the Town of Shirley Planning Board
- (v) any person filing written request for notice of public hearings, such request to be renewed yearly in December, and
- (vi) other such persons as the Commission shall deem entitled to notice.

Notice to the owner and applicant shall be by certified mail.

The Commission may also require that the applicant maintain on the building or structure, a notice, on a form provided by the Commission and visible from the nearest public way, of any hearing on the subject matter of such application.

## **Section 6. Emergency Demolition**

Nothing in this bylaw shall prevent the emergency demolition of any building or structure that demonstrates a clear and present danger to public safety. And, nothing in this bylaw shall be construed to derogate in any way from the authority of the Building Inspector derived from Chapter 143 of the General Laws. However, where possible, before acting pursuant to said chapter, the Building Inspector shall inform the Chairperson of the Commission of his intentions to cause demolition before he initiates same.

## **Section 7. Historic Districts Act**

Nothing in this bylaw shall be deemed to conflict with the provisions of the Historic Districts Act as described in the Massachusetts General Laws, chapter 40C. This includes requirements of notice, hearing and issuance by the Commission of a Certificate of Appropriateness, a Certificate of Non-applicability or a Certificate of Hardship granted prior to the demolition of any building or structure in a historic district.

## **Section 8. Noncompliance**

The Building Inspector shall take such actions as necessary to obtain compliance with the requirements of this by-law. In the event that a building or structure, having been determined by the Commission to be “Preferably Preserved”, is demolished without fully complying with the provisions of this by-law, the Building Inspector may deny a building permit for the parcel on which such demolition took place for a period of two years after the date of demolition.

## **Section 9. Severability**

If any section, paragraph or part of this bylaw is declared invalid or unconstitutional by a court of competent jurisdiction, every other section, paragraph and part shall continue in full force and effect.